

REMARKS

By this amendment, claims 1-5 and 7-9 are pending. Claims 1-8 stand rejected. Claims 1-5, 7 and 8 have been amended. Claim 9 has been added. Claim 6 has been canceled. In view of the amendments to the claims and the remarks below, Applicant respectfully requests the rejections be withdrawn and the claims be allowed.

Applicant notes that the Office Action identifies and was mailed to a previous attorney of record for the present application. Applicant refers the Examiner to the Revocation of Prior Power of Attorney and Appointment of New Attorney document submitted on October 11, 2007. Applicant respectfully requests that the attorney and correspondence information for the present application be updated in accordance with the submissions of October 11, 2007.

Claims 5-7 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Specifically, the rejections relate to the use of specific language in claims 5 and 6. The rejection is respectfully traversed. Claim 5 has been amended in accordance with the Examiner's suggestions. Claim 6 has been canceled, though the subject matter of claim 6 has been incorporated into claim 1. The incorporation of claim 6 into claim 1 uses language in accordance with the Examiner's suggestions. Claim 7 has been amended to depend from claim 1. Therefore, Applicant believes that claims 5 and 7 are allowable. Applicant respectfully requests that the rejection be withdrawn and that the claims be allowed.

Claims 1-5 and 8 stand rejected over 35 U.S.C. § 102(b) as being anticipated by U.S. Patent Publication No. 2002/0016590 to Schnitzler ("Schnitzler"). The rejection is respectfully traversed.

Claim 1 recites an instrument for plasma coagulation. The instrument includes "a tubular probe body with a tube wall defining a lumen through which an inert gas is conducted." The instrument also includes "an ignition electrode located within the lumen ..., a current conductor and "a tubule made of a high-temperature-resistant material." The instrument includes "a fixing device

fixing said ignition electrode in a predetermined position within said probe body, and comprising a flat body with longitudinal edges by means of which said flat body is attached to said tube wall such that said flat body extends substantially diametrically across said lumen, and to which the ignition electrode is attached.” The “tubule is inserted into said lumen in the region of said outlet, and said flat body is disposed at an end of the tubule that faces away from said outlet.” As explained below, Schnitzler fails to disclose each of the limitations of claim 1.

Schnitzler discloses a probe electrode that includes a flat body in the form of a discharge portion of the electrode. Schnitzler, ¶ [0009]. The discharge portion of the electrode aids in centering the electrode. Schnitzler, ¶ [0016]. The electrical lead portion of the electrode is spot-welded to the discharge portion. Schnitzler, ¶ [0018]. However, a few differences exist between the discharge portion of Schnitzler and the flat body of the present application. One significant difference is that the flat body recited in claim 1 is disposed at the end of a tubule that is near the instrument outlet. A “tubule is inserted into said lumen in the region of said outlet, and said flat body is disposed at an end of the tubule that faces away from said outlet.” Schnitzler does not disclose an inner tubule near the outlet of the device nor a flat body disposed to the other side of the inner tubule. Additionally, the flat body of claim 1 is a separate device from the recited ignition electrode. In Schnitzler, the discharge portion is a part of the electrode. For at least these reasons, Schnitzler does not anticipate claim 1. Claim 1 is thus allowable over Schnitzler. Claims 2-5 and 8 depend from claim 1 and are thus allowable for at least the same reasons that claim 1 is allowable. Accordingly, Applicant respectfully requests that the rejection be withdrawn and that the claims be allowed.

Claim 1 stands rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,320,621 to Gordon et al. (“Gordon”). The rejection is respectfully traversed.

Gordon discloses an electrode that is held into place by a clip that is “preferably formed from a cylindrical tube which has been deformed into a configuration which has a central conduit-like section which engages and supports the electrode and two opposed conduit-like lobe portions which extend outward and slightly compress against the nozzle to hold the electrode and clip in

place in the nozzle.” Gordon, Abstract. The clip in Gordon, however, is not a flat body. A portion of the clip is flat. Gordon, fig. 6, ref. no. 42. However, this portion does not extend “substantially diametrically across the said lumen,” as recited in claim 1 of the present application. Thus, Gordon fails to teach the recited flat body of the present application. Claim 1 is allowable over Gordon for at least this reason. Accordingly, Applicant respectfully requests that the rejection be withdrawn and that the claim be allowed.

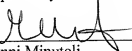
Claims 6 and 7 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Gordon in view of U.S. Patent No. 5,720,745 to Farin et al. (“Farin”). The rejection is respectfully traversed.

Claim 6 has been canceled, as explained above. Claim 7 depends from claim 1. As explained above, Gordon fails to reach each element and limitation of claim 1, and hence claim 7. Specifically, Gordon fails to teach the recited flat body. Additionally, Farin fails to remedy the inadequacies of Gordon. Farin, used in the Office Action to teach the inclusion of an inner tubule, also fails to teach the recited flat body. Therefore, for at least these reasons, claim 7 is allowable over the cited combination. Applicant respectfully requests that the rejection be withdrawn and that the claim be allowed.

In view of the above amendment, Applicant believes the pending application is in condition for allowance. If there are any additional charges in connection with this filing or any subsequent filings (including but not limited to issue fees), the Examiner is respectfully requested and authorized to charge Deposit Account No. 04-1073 therefor under Order No. E7900.2041/P2041.

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Respectfully submitted,

By 
Gianni Minutoli

Registration No.: 41,198
Thomas D. Anderson, Esq.
Registration No.: 56,293
DICKSTEIN SHAPIRO LLP
1825 Eye Street, NW
Washington, DC 20006-5403
(202) 420-2200
Attorneys for Applicant